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Attorneys for Defendant  
American Safety Indemnity Company

**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

ACCEPTANCE INSURANCE  
COMPANY,

Plaintiff,

vs.

AMERICAN SAFETY RISK  
RETENTION GROUP, INC., and  
AMERICAN SAFETY INDEMNITY  
COMPANY,

Defendants.

Case No. CV08-01577 GPS (AGRx)

**EVIDENTIARY OBJECTIONS TO,  
AND MOTION TO STRIKE  
PORTIONS OF, DECLARATION  
OF BRETT G. HAMPTON**

[Filed and Served Concurrently With  
Memorandum of Points and  
Authorities]

Date: April 14, 2008  
Time: 1:30 p.m.  
Place: Courtroom 7  
Judge: Hon. George P. Schiavelli

ORAL ARGUMENT REQUESTED

Pursuant to Federal Rules of Evidence, Defendant AMERICAN SAFETY INDEMNITY COMPANY ("ASIC") respectfully submits the following evidentiary objections to, and Motion to Strike the following portions of, the Declaration of Brett G. Hampton filed in opposition to ASIC's Motion to Transfer, pursuant to 28 U.S.C. § 1404(a).

**I. STATEMENT:**

“2. This is a contribution case file by Acceptance Insurance, against American Safety Risk Retention Group, Inc. and Does 1 through 100, for failure to defend and indemnify the mutual primary insured, Bay Area Construction Framers, Inc. in an underlying construction defect case that settled. That underlying construction defect case was in litigation in northern California.” (p. 8, Para. 2.)

**OBJECTIONS:** This statement is objectionable because:

- a. The witness lacks personal knowledge of the matter, as he was not involved in the underlying case, or the above-captioned action prior to March 2008. (Fed. R. Evid. 602.)

**II. STATEMENT:**

“4. Plaintiff was prepared to proceed with a motion for summary judgment to resolve this case in the state court action when American Safety Indemnity Company filed its Notice of Removal. . .” (p. 8, Para. 4.)

**OBJECTIONS:** This statement is objectionable because:

- a. The witness lacks personal knowledge of the matter, as he was not involved in the above-captioned action prior to March 2008. (Fed. R. Evid. 602.)
- b. It lacks foundation.

**III. STATEMENT:**

“5. Defendant's sole witness, Jean Fisher, gave sworn deposition testimony in this case already on December 5, 2007.” (p. 8, Para. 5.)

**OBJECTIONS:** This statement is objectionable because:

- a. The witness lacks personal knowledge of the matter, as he was not involved in the above-captioned action prior to March 2008. (Fed. R. Evid. 602.)

- b. It violates the Best Evidence Rule. (Fed. R. Evid. 901.)
- c. It lacks foundation.

#### **IV. STATEMENT:**

“6. Transfer of this case from the Central District to the Southern District will only serve to increase the financial burden of litigation on all parties, Plaintiff and Defendants alike. All of the attorneys in this case are based in Los Angeles. A transfer will only drive up litigation costs for Defendants as well as for the Plaintiff to the extent that litigation would involve travel from Los Angeles to San Diego for hearings and other litigation matters. A transfer hardly seems to be in the interests of justice or a means of reducing costs for anyone, let alone the moving Defendant herein.” (p. 8, Para 6.)

**OBJECTIONS:** This statement is objectionable because:

- a. The witness lacks personal knowledge of the matter, as he was not involved in the above-captioned action prior to March 2008. (Fed. R. Evid. 602.)
- b. It constitutes improper opinion testimony. (Fed. R. Evid. 701.)
- c. It is speculative.

On the grounds set forth above, ASIC respectfully requests that its objections to the referenced portions of Paragraphs 2, 4, 5, and 6 of the Declaration of Brett G. Hampton be sustained, and those portions stricken.

Respectfully submitted,

DATED: April 7, 2008

Law Offices of David S. Blau

By: 

David S. Blau  
David M. Morrow  
Attorney for Defendant  
American Safety Indemnity Company

**PROOF OF SERVICE**

*Acceptance Insurance Co. v. American Safety Risk Retention Group, Inc., et al.*

United States District Court Case No.

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 6080 Center Drive, Suite 210, Los Angeles, California 90045.

On April 7, 2008, I served the foregoing documents described as **EVIDENTIARY OBJECTIONS TO, AND MOTION TO STRIKE PORTIONS OF, DECLARATION OF BRETT G. HAMPTON** on the interested parties in this action by placing a true copy thereof enclosed in the sealed envelopes addressed as follows:

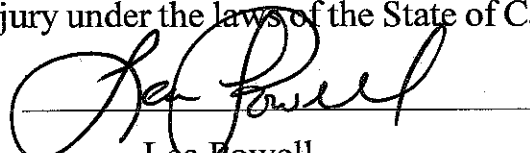
**SEE ATTACHED SERVICE LIST**

- ☒ BY MAIL: I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.
- ☐ BY PERSONAL DELIVERY: I delivered such envelope by hand to the offices of the addressee.
- ☐ VIA FACSIMILE: I caused all of the pages of the above entitled document to be sent to the recipients noted above via electronic transfer (FAX) at the respective facsimile number(s) indicated above. This document was transmitted by facsimile and transmission reported complete without error.
- ☒ FEDERAL: I certify or declare that I am employed in the office of a member of the bar of this court at whose discretion the service was made.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postal meter date is more than 1 day after date of deposit for mailing in affidavit.

Executed on April 7, 2008 at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

  
Lea Powell

**SERVICE LIST**

**Acceptance Insurance Co. v. American Safety Risk Retention Group, Inc., et al.**

United States District Court Case No. CV08-01577 GPS (AGRx)

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